



# Town Council Agenda Report

**SUBJECT:** QUASI JUDICIAL - VARIANCE

**TITLE OF AGENDA ITEM:**

V 9-4-99 Kerr & Associates, petitioner / Timothy Ryan, owner - 3450 Weston Road - Generally located, approximately one-quarter mile north of SW 36th Street on the east side of West Road.

**REPORT IN BRIEF:**

Code Section 12-54 requires a minimum site area of 20 acres for lands zoned BP, Business Park District. The petitioner is requesting a variance to reduce the required 20 acre area to 3.54 acres. In addition to this request the petitioner is seeking to rezone this property, also on this agenda. (ZB 8-1-99).

The original intent of the minimum site area of 20 acres was to promote the development of large portions of land in proximity to Interstate I-75, providing for an area of land consistent with the transportation facility type uses permitted within the BP zoning district.

The location of the subject site is geographically isolated from all land within the Town of Davie, separated by Interstate I-75 to the east and the City of Weston to the west, except for the property abutting it to the south which is currently zoned BP. Staff believes the BP zoning district is the most appropriate designation for this site to avoid the perception of spot zoning, given the isolation west of I-75 abutting BP zoning, providing for continuity of zoning in the area consistent with the intent of the BP district. Staff also believes, if the proposed variance is denied based on the minimum site area, the petitioner is presented with a hardship which is not self-created as the BP zoning district is the most appropriate zoning designation for this site.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:**

The Planning and Zoning Board recommended approval (5-0) at its October 27, 1999 meeting, (motion by Mr. Pisula, second by Mr. Kuvin).

Staff recommends approval with a finding that the request meets the general intent and purpose of the code, and will not be injurious to the public welfare.

**FISCAL IMPACT:**

Is appropriation required? No  
Funding appropriated? No

**RECOMMENDATION(S):**

Motion to approve.

**Attachment(s):**

Planning Report, Variance Application, Land Use Map, Subject Site Map, and Aerial.

**Application #: V 9-4-99**

**Revisions:**

**Exhibit "A":**

**Original Report Date: 10/28/99**

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**TOWN OF DAVIE  
Development Services Department  
Planning & Zoning Division Staff  
Report and Recommendation**

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**APPLICANT INFORMATION**

**Owner:**

**Name:** Timothy Ryan  
**Address:** 5691 Woodland Lane  
**City:** Davie, FL 33312  
**Phone:** (954) 920-2921

**Agent:**

**Name:** Leigh Robinson Kerr & Associates  
**Address:** 808 East Las Olas Blvd., Ste. 104  
**City:** Fort Lauderdale, FL 33301  
**Phone:** (954) 467-6308

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**BACKGROUND INFORMATION**

**Application Request:** To reduce the minimum site area requirement from 20 acres to 3.553 acres.

**Address/Location:** 3450 Weston Road / Generally located approximately one-quarter mile north of SW 36th Street on the east side of Weston Road.

**Land Use Plan Designation:** Residential (1 du/ac)

**Zoning:** AG, Agricultural District

**Existing Use:** Vacant

**Proposed Use:** Office/Business

**Parcel Size:** 3.553 acres

**Surrounding Land Use:**

**North:** Vacant (Proposed Wetland Mitigation Area)

**South:** Vacant (Proposed Office/Business Center)

**East:** Interstate I-75

**West:** City of Weston, Weston Park of Commerce

**Surrounding Zoning:**

**South:** BP, Business Park District

**East:** AG, Agricultural District, across Interstate I-75 zoned T, Transportation

**West:** City of West, Weston Park of Commerce

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## ZONING HISTORY

**Related Zoning History:** An application for the rezoning of this property to the BP zoning district (ZB 8-1-99) has been filed with the Planning Division and is pending consideration of this variance.

**Previous Request on same property:** None

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## DEVELOPMENT PLAN DETAILS

**Development Details:** None at this time.

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## Applicable Codes and Ordinances

**12-24(G):** The Business Park (BP) District is intended to be used to promote modern campus types of industrial office, distribution and service business areas where a wide variety of uses can be built in an attractive environment with substantial open areas on the periphery of the development.

**Table 12-54:** Non-Residential Performance Standards for the BP zoning district requires a minimum site area of 20 acres.

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## Comprehensive Plan Considerations

**Planning Area:** The subject site falls within Planning Area 1 and Flexibility Zone 113. Annexations have expanded the Town's western boundary in this vicinity, to include additional residential and commercial lands, and property owned by the local drainage district.

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## Staff Analysis

The petitioner is seeking to rezone the subject site from A-1 to BP, however, Code Section 12-54 requires a minimum site area of 20 acres for lands zoned BP, Business Park District. Subsequently, the petitioner is requesting a variance to reduce the required 20 acre site area to 3.553 acres.

The intent of the minimum 20 acre site area for properties to be zoned BP is to promote the BP designation on large land areas in the western portion of the Town in proximity to Interstate 75. Lots of less than 20 acres in size within the master-planned development could then be sold off under separate ownership.

Interstate 75 geographically isolates the subject site from all other portions of Davie with the exception of more than 150 acres of land to the south zoned BP which may constitute special

circumstances. Land west of the site, in the City of Weston, is also developed consistent with the BP district uses. The subject site's AG zoning is inappropriate given the site isolation, adjacent uses and adjacent zoning. Rezoning the site to the BP district would provide continuity in zoning and land use in the area west of I-75, consistent with the intent of the BP district, and avoid any perception of spot zoning, should the subject site be rezoned to a district other than BP. The foregoing analysis indicates the BP district is appropriate zoning for the subject site, which may represent an unnecessary hardship due to the 20 acres minimum site area requirement.

The subject site is likely the last parcel to rezone to the BP District within the Town, and while not part of the large master-planned business park to its south, it may be considered as a final, northerly extension of the master -planned park.

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## Findings of Fact

### Section 12-309(B)(1)

- (a) The strict application of the provisions of the code may deprive the applicant of the reasonable use of such land for which the variance is sought, and the hardship is not self-created by any person having an interest in the property due to possible special circumstances relating to the land.
- (b) The variance as requested is the minimum variance that will accomplish this purpose.
- (c) The variance request is in harmony with the general purpose and intent of the code and will not be injurious to the area or otherwise detrimental to the public welfare.

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## Staff Recommendation

**Recommendation:** Based upon the above and the finding of facts in the positive, staff recommends approval of Application No. V 9-4-99.

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## Planning and Zoning Board Recommendation

The Planning and Zoning Board recommended approval (5-0) at its October 27, 1999 meeting, (motion by Mr. Pisula, second by Mr. Kuvin).

## Exhibits

1. Land Use Map
2. Subject Site Map
3. Aerial

Prepared by: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_

EXISTING ZONING: Agriculture  
CODE SECTION: Section 12-32

PROPOSED ZONING: Business Park (BP)  
CODE SECTION: Section 12-32

LAND USE DESIGNATION: Residential (1)

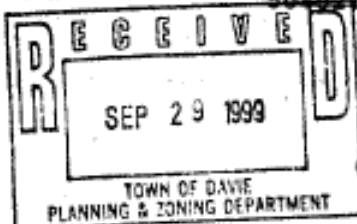
FOLIO NUMBER 504921010440 and 0430 and 0420

TOWN OF DAVIE USE ONLY

PETITION NO. V9-4-99

FEE. \$930

RECEIPT NO. 7751



TOWN OF DAVIE  
VARIANCE APPLICATION

NOTE: INFORMATION MUST BE TYPED AND NOTARIZED)  
Make Checks payable to TOWN OF DAVIE

DATE FILED: September 30, 1999

PHONE: 467-6308

PETITIONER: Leigh Robinson Kerr & Associates, Inc.

MAILING ADDRESS: 808 East Las Olas Blvd., #104, Fort Lauderdale,  
Florida 33301

RELATIONSHIP TO PROPERTY:

OWNER: Agent

MAILING ADDRESS: Timothy Ryan, c/o Timothy Ryan

ADDRESS OF PROPERTY: 5691 Woodland Lane, Fort Lauderdale, FL 33312-6247

Generally located at the Northeast corner of SW 36th Street and  
Weston Road  
LEGAL DESCRIPTION: (Certified Sealed Boundary Survey to include statement  
of amount of acreage involved MUST be submitted with application):

See attached

ACREAGE:

REQUEST: Approximately 3.5 +/- acres.

To allow a Business Park district where 20 acres is required.  
REASON FOR REQUEST: (attach additional sheet as necessary)

See attached.

*Pre-App. meeting satisfied* (Signature)

\*\*\* PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN \*\*\*

OFFICE USE ONLY

APPROVED AS TO FORM: *Jat* PUBLICATION DATE: 10/30/99

MEETING DATE: PLANNING AND ZONING BOARD: 10/27/99 TOWN COUNCIL: \_\_\_\_\_

NOTICES SENT: 3 REPLIES: FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_

UNDELIVERABLE: \_\_\_\_\_

OWNER'S NAME(S) Timothy Ryan

OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)

c/o Timothy Ryan

ADDRESS 5691 Woodland Lane, Florida  
33312

CITY, STATE, ZIP

954-920-2921

PHONE

PETITIONER'S NAME Leigh Robinson Kerr & Assoc.

PETITIONER'S SIGNATURE Leigh Robinson Kerr

808 East Las Olas Blvd, #104

ADDRESS

Fort Lauderdale, FL 33301

CITY, STATE, ZIP

954-467-6308

PHONE

The foregoing instrument was acknowledged before me  
this 28 day of Sept, 1999, by  
Timothy Ryan who is personally  
known to me or who has produced

as identification and who did take an oath.

NOTARY PUBLIC:

Sign: [Signature]

Print: [Signature]

My Commission Expires: 05/22/2000  
Leigh R. Kerr  
Notary Public, State of Florida  
Commission No. CC 556701  
My Commission Exp. 05/22/2000  
1-800-1-NOTARY Fla. Notary Service & Bonding Co.

The foregoing instrument was acknowledged before me  
this 29th day of September, 1999, by  
Leigh Robinson Kerr who is personally  
known to me or who has produced

as identification and who did take an oath.

NOTARY PUBLIC:

Sign: [Signature]

Print: [Signature]

My Commission Expires: 05/22/2000  
Leigh R. Kerr  
Notary Public, State of Florida  
Commission No. CC 556701  
My Commission Exp. 05/22/2000  
1-800-1-NOTARY Fla. Notary Service & Bonding Co.

OFFICE USE ONLY



# SKETCH OF THE RYAN LANDS TO BE REZONED

## DESCRIPTION

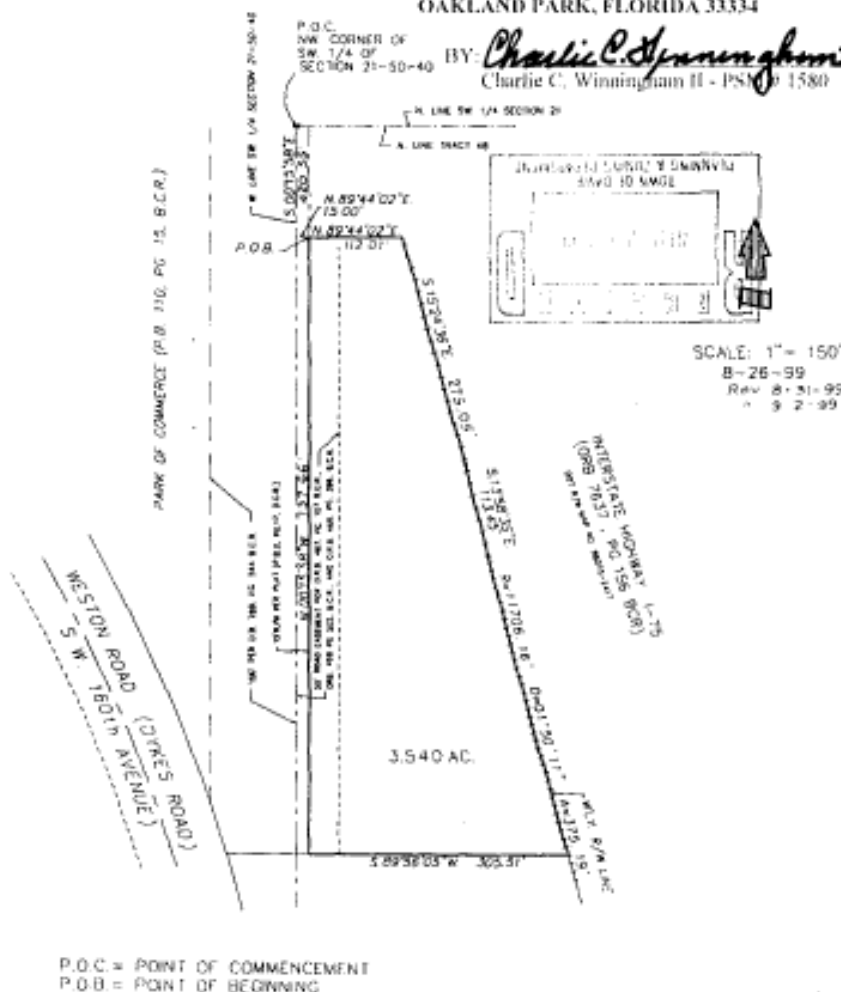
A parcel of land in the Southwest 1/4 of Section 21, Township 50 South, Range 40 East, said parcel including portions of Tract 45, 46 and 47, according to the FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1 of said Section 21, as recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida, and being more particularly described as follows:

Commencing at the Northwest corner of said Southwest 1/4 of Section 21; thence run South 00°15'58" East (on a grid bearing) 420.55 feet along the West line of said Southwest 1/4; thence run North 89°44'02" East 15.0 feet to the Point of Beginning; thence continue North 89°44'02" East 112.01 feet to an intersection with the Westerly right of way line of Interstate Highway I-75, as described in the instrument filed in Official Records Book 7637 at Page 156 of the Public Records of Broward County, Florida; thence run South 15°24'36" East 275.05 feet along said Westerly right of way line to a point of intersection; thence run South 13°58'35" East 113.45 feet along said Westerly right of way line to a point of curvature of a curve to the left; thence along said Westerly right of way line on the arc of said curve to the left, having a radius of 11706.16 feet and a central angle of 01°50'11", run Southeasterly 375.19 feet to an intersection with the South line of the North 1/2 of said Tract 45; thence run South 89°56'05" West 305.51 feet along said South line to an intersection with a line 15 feet East of, as measured at right angles and parallel to said West line of the Southwest 1/4 of Section 21; thence run North 00°15'58" West 737.66 feet along said parallel line to the Point of Beginning.

Said lands situate in the Town of Davie, Broward County, Florida and containing 3.540 acres, more or less.

C.C. WINNINGHAM CORPORATION - LB # 46  
1040 NORTH EAST 45TH STREET  
OAKLAND PARK, FLORIDA 33334

BY: *Charlie C. Winningham II*  
Charlie C. Winningham II - PS 1580



## Ryan Variance Request

1. Whether there special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the same district.

The subject property is a remnant parcel that was created by the construction of I-75. The Florida Department of Transportation acquired right-of-way from the owner for the construction of I-75 leaving a remnant parcel between the existing I-75 and Weston Road. These circumstances are unique to this parcel and do not generally apply to land in the Business Park district.

2. Whether said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building, for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

The size of this parcel was not a self-imposed hardship. As mentioned above, the FDOT right-of-way acquisition for I-75 created this small, irregular shaped parcel. The property is currently zoned for agricultural uses. However, the property is surrounded by urban uses and the applicant is requesting a rezoning to Business Park (BP). If the owner continues to be limited to agricultural uses, the owner will be deprived of a reasonable use of the property in light of the surrounding urban development patterns.

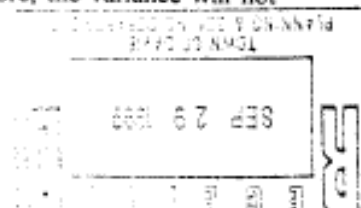
3. Whether the granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

The property is currently zoned Agriculture (AG). However, it is not practical to utilize this property for agricultural uses due to its size and proximity to urban uses. Therefore, this variance and associated rezoning is required to provide the owner with a reasonable use of the property. This is the minimum variance that will allow the rezoning of this property to BP.

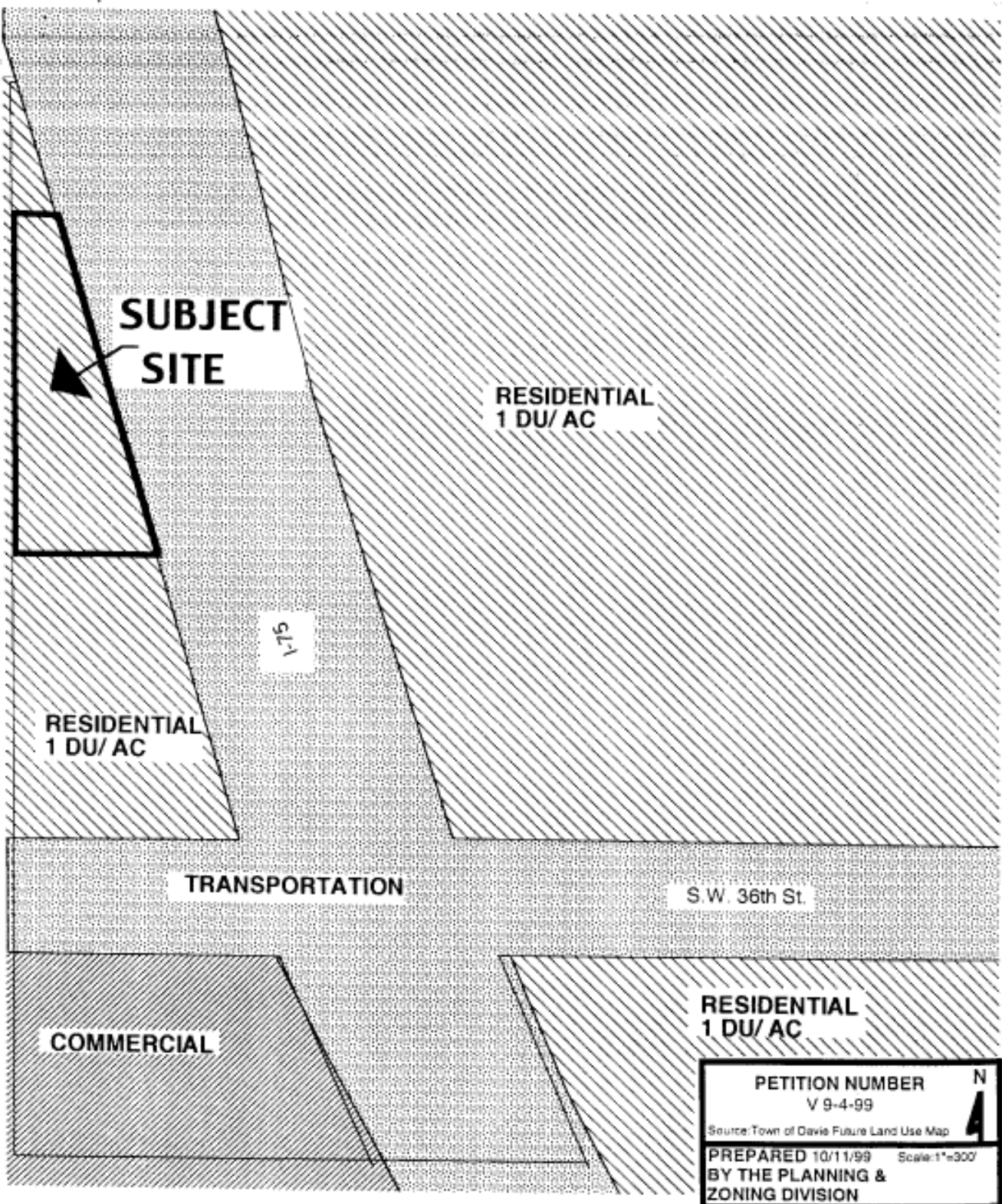
4. Whether the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

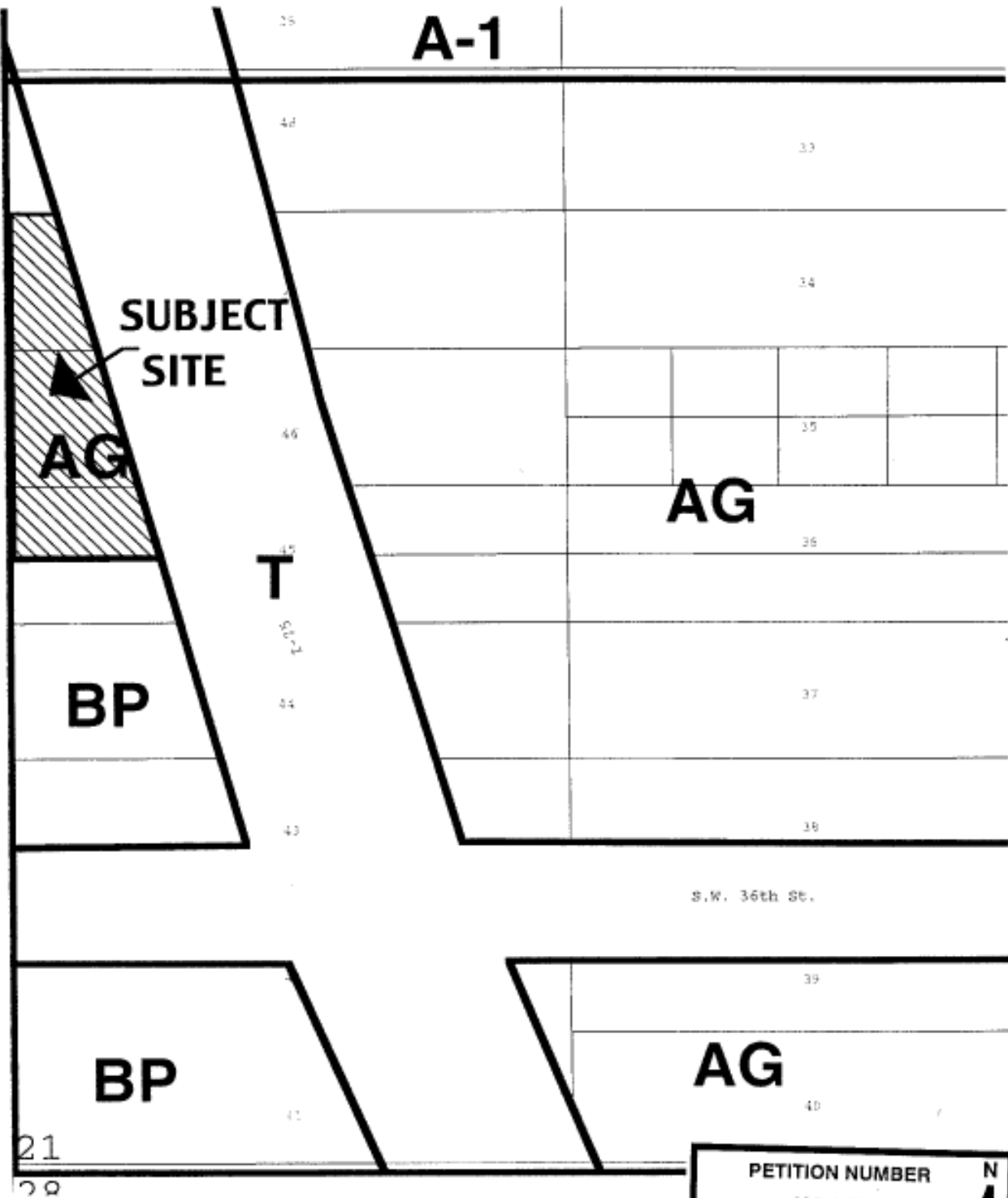
Future development of this property will be subject to all other applicable development standards of the BP district. Therefore, granting of this variance will be in harmony with the general purpose and intent of the BP district. The proposed BP district is compatible with the surrounding urban land uses within the Town and Weston, the neighboring jurisdiction. Therefore, the variance will not be detrimental to the public welfare.

9927/VARIANCE REQUEST









PETITION NUMBER		N
V 9-4-99		4
PREPARED 10/11/99 BY THE PLANNING & ZONING DIVISION		
Scale: 1"= 300'		

